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April 6, 2016

[Complainants]

[Superintendent]

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
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RE: **FINAL REPORT for** In the Matter of [Student], 2016-03, Alleged Violations of the Individuals With Disabilities Education Act (IDEA) and Montana special education laws.

This is the Final Report pertaining to the above-referenced state special education complaint (Complaint) filed pursuant to the Administrative Rules of Montana (ARM) 10.16.3662. *** (Complainants or parents) filed the Complaint on behalf of their child, ** (Student), a student in ** Pubic School District (District). Complainants allege the District violated the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. §1400 et seq., Montana special education laws, Title 20, Ch. 7, Montana Code Annotated (MCA), and corresponding regulation at 34 CFR Part 300 and ARM 10.16.3007 et seq. The District allegedly:

- (1) Failed to complete timely and appropriate transition assessments and write appropriate transition goals and provide transition services to meet those goals;
- (2) Denied Student a free appropriate public education (FAPE) because Student's IEP dated February 5, 2015 was not reasonably calculated to provide educational benefits; and
- (3) Failed to write individual goals in the area of reading in the 2014 IEP and failed to provide reading services.

The investigation also revealed an issue regarding whether the District failed to follow District policy when considering whether Student was eligible for a waiver of the maximum age of mandatory enrollment. Although this does not fall under the jurisdiction of the Office of Public of Instruction under a State Complaint filed pursuant to the IDEA, it is an integral factor in the complaint. As such, this matter is addressed in Issue 4.

A. Procedural History

1. On February 8, 2016, the Montana Office of Public Instruction (OPI) received the special education complaint signed by the Complainants.
2. On February 26, 2016, the Office of Public Instruction's Early Assistance Program (EAP) concluded the matters alleged in the Complaint were not able to be resolved through the EAP at that time and sent a Request for Written Response to the District. The Complaint proceeded to investigation. The OPI received the District's written response to the Complaint on March 8 2016.

3. An appointed investigator conducted interviews with: the Complainants, Complainants' advocate, the District's special education director, special education coordinator, student services program specialist, the school principal, the vocational teacher and the case manager.

B. Legal Framework

The OPI is authorized to address alleged violations of the IDEA and Montana special education laws through this special education state complaint process as outlined in 34 CFR §300.151-153 and ARM 10.16.3662, which occurred within one year prior to the date of the complaint. Pursuant to 34 CFR §300.151-153 and ARM 10.16.3662, all relevant information is reviewed and an independent determination is made as to whether a violation of federal or state statute, regulation or rule occurred.

C. Findings of Fact

1. Complainants have standing to file this Complaint pursuant to ARM 10.16.3661.
2. Student was 18 years old at the time the Complaint was filed, but turned 19 on February 11, 2016. Complainants have obtained legal guardianship of Student.
3. Student has received special education services from the District since preschool. He did not complete first grade until he was eight years of age. He has not repeated a grade.
4. As early as 2010, parents were informed that Student would "age out" of special education services at age 19, before he completed four years of high school.
5. When Student was in seventh grade, parents were informed that they may want to consider moving Student to high school with his same age peers to receive four years of vocational services. Parents declined.
6. Beginning in 2013 and at the February 5, 2014 IEP meeting, parents were referred by the District to outside agencies that could assist in transition services for Student including developmental disabilities (DD) services and vocational rehabilitation services (Voc Rehab). District personnel informed parents when the Voc Rehab person was at the high school. Parents have not followed up with those services. No outside agencies were invited to the IEP meetings.
7. When Student was in eighth grade and had reached the age of 16, the District conducted assessments in the transition areas. Transition assessments were given, including the Enderle-Severson Interest Inventory- Revised administered on February 5, 2013 and the Reading Free Interest Inventory 2 administered on January 20, 2013.
8. Beginning in eighth grade, informal assessments including classroom performance, curriculum based, and job performance were ongoing on an annual basis.
9. Student attended basic skills and adaptive PE classes at the high school; he has previously received regular education classes in reading at parents' request.
10. Student, as a part of his high school vocational program, worked with his classmates in the special education program in various activities in the community including Festival of Trees, distributing posters around town, recycling, shredding, collating and sorting papers, shopping for school and coffee shop supplies, and assisting elderly with raking leaves and snow shoveling.
11. The District's Independent Living Assessment was partially completed on January 20, 2015. The Casey Life Skills Assessment, both High School and Upper Elementary was completed on December 3, 2015, as well as the Reading Free Interest Inventory 2.

12. In a letter dated January 22, 2015, prior to his annual IEP date, Student's parents requested that a number of assessments be completed. These assessments included an independent living assessment, an assistive technology assessment, an updated hearing evaluation, a communication/speech skills assessment, a functional skills assessment, a reading skills assessment, and a new career interest inventory.
13. In the January 22, 2015 letter, Student's parents expressed concerns that the present levels of performance in adaptive PE, career vocational, self-help, and independence domains were inadequate for writing appropriate goals. The parents stated that the goals in math and written expression may need to be rewritten to be more functional.
14. An audiological referral was made, but Student was not made available for the evaluation prior to the IEP meeting.
15. Student had an annual IEP meeting on February 5, 2015. The IEP was not signed at that time and additional meetings were held.
16. On that IEP, both communication needs and assistive technology needs were checked no. There was no comment in the IEP or prior written notice that these items were discussed and rejected or reasons why they were rejected. There was no documentation on the IEP of a formal reading assessment, although there was information about informal reading and math assessments. Parents' January 22, 2015 letter was included as an attachment to the IEP.
17. There were no changes to the transition goals from the 2014 IEP to the February 5, 2015 IEP. A reading goal was added and the focus in the math area was functional math skills. The February 5, 2015 meeting ended without completing the IEP.
18. Following surgery in February, 2015, Student was restricted to a wheelchair for approximately six weeks. He could not participate in community work opportunities because the District only had one wheelchair accessible van and it was often not available. Student did assist in the District coffee shop and assisted in school vocational activities that he could complete while in the wheelchair.
19. Another IEP meeting was held on May 28, 2015. At that meeting, it was decided that career and vocational goals would be further developed in the fall of 2015, and Student would receive extended school year services during that summer. The IEP was signed on June 5, 2015, with exceptions made to the career, vocational and transition services sections of the IEP.
20. The District provided two progress reports for Student based on the 2014 IEP and the February 5, 2015 IEP for March 6, 2015, April 24, 2015, May 28, 2015, October 9, 2015 and November 23, 2015. The February 5, 2015 IEP was not signed with exceptions until June 5, 2015. The progress reports based on the February 5, 2015 IEP from March to May 2015 indicate the District was implementing some of the goals without parental consent.
21. Another IEP meeting was held on October 29, 2015, to follow up on the career and vocational goals. The present levels and goals were revised in the area of career and vocation, with the parents agreeing to the changes. The IEP was signed with exceptions on November 23, 2015. An exception was again made with the transition services section of the IEP.
22. Beginning in January, 2016, seven formal assessments were completed in addition to the ongoing informal assessments of classroom performance, curriculum based performance, and job performance.
23. The seven formal assessments were administered on three separate days. On January 19, 2016, the Student Questionnaire, Instrumental Activities of Daily Living (IADL) Skills Checklist, the Activities of Daily Living (ADL) Skills Checklist, and the Enderle-Severson Transition Rating

Scale-Revised (ESTR-R) were given to Student. On January 26, 2016, the School Function Assessment (SFA) and the District's Independent Living Assessment were administered. The Transition Behavior Scale –3rd Edition was administered on January 27, 2016.

24. Student was not placed in an independent job site because his vocational teacher did not believe he was ready to work independently without direct supervision. Student's teacher did not believe he would be able to work independently any time in the near future because of his particular disabilities.
25. The teacher also reported that it is very difficult to find outside employers who are willing to work with disabled students.
26. Student's vocational teacher and case manager reported that Student has made progress on his transition and other IEP goals, but because of his particular disabilities, there are additional skills he has not mastered.
27. An IEP meeting was held on February 3, 2016. There were no exceptions made to this IEP. Parents were in agreement with the goals contained in this IEP, but were concerned that there was inadequate time to meet the goals before Student's scheduled graduation date in May, 2016.
28. Parents claimed that if the assessments had been completed the previous year, there would be a better understanding of Student's present levels of performance and appropriate goals and services could have been provided earlier.
29. Student is scheduled to graduate with a high school diploma in May, 2016, for completing his special education goals. The most recent progress reports indicated that Student was making progress on, but had not achieved the majority of his special education goals.
30. District has a waiver policy (District Policy 2550) based on § 20-5-101, MCA, allowing for an additional year of school after a student has reached the age of 19. The waiver is allowed for exceptional circumstances and is at the sole discretion of the District.
31. Although not specifically mentioned in the policy, it is the practice of the District that the waiver is not available for students who receive special education services.
32. Parents requested an additional year of education for Student to address the needs and services outlined in the 2016 IEP. That request was denied.

D. Analysis and Conclusions

Issue 1: Did the District err when it failed to respond to parents' request for a reevaluation and failed to complete appropriate transition assessments of Student to develop postsecondary transition goals and provide appropriate transition services to meet those goals?

The Complainants allege that the District failed to appropriately assess Student's needs and, therefore, the goals and services provided to meet those goals were inadequate. The IEP at issue is the IEP dated February 5, 2015.

In 2013, when Student was in eighth grade, the District conducted the Endrele-Severson Interest Inventory and the Reading Free Interest Inventory 2. No additional transition evaluations were conducted until January 20, 2015 when the District's Independent Living Assessment was partially completed.

As early as January 22, 2015, parents requested that assessments be completed in a number of areas of suspected need. Parents' January 22, 2015 letter to the District specifically requested a

functional skills assessment, a new career inventory, an updated hearing assessment, an assessment of communication/speech skills, an assistive technology assessment, an assessment of student's reading skills, and an independent living skills assessment. Parents state "Please consider this letter as a formal request that all of these assessments be undertaken." This letter was clearly a request for a reevaluation pursuant to 34 CFR § 300.303(2).

The District's Independent Living Assessment was completed prior to the February 5, 2015 IEP meeting. As reported by Student's teachers, the District's assessment provides useful information about a student's skills and is beneficial at developing appropriate transition goals, especially in the area of independent living. IDEA requires that no later than when the first IEP is in effect when the child turns 16, and updated annually, the IEP must include appropriate measurable post-secondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills. 34 CFR § 300.320(b). On this record, transition assessments that addressed all areas of transition were not completed until January 2016¹.

Audiological, speech/communication, and assistive technology evaluations have never been completed. The District did conduct assessments in some of the requested areas, but others were not completed and there is insufficient documentation about why the requested assessments were not completed. There was no indication on the February 5, 2015 IEP that the issue of a reevaluation was discussed. The box for reevaluation was checked as not being necessary, but there was no discussion in the notes or elsewhere as to why the parents' request was denied. The District had a responsibility to timely reevaluate student in the areas requested or refuse to reevaluate student and give the parents prior written notice. 34 CFR § 300.503. Failure to conduct the reevaluations or give prior written notice is a violation of 34 CFR § 300.303 and 34 CFR § 300.503.

With regard to transition assessments, the IDEA is silent on the specific assessments that are to be used, but require that the assessments are dependent on the individual needs of the child. U.S. Department of Education Discussion of the Federal Regulations, 71 Fed. Reg. 46667 (2006). "Congress and the IDEA placed 'added emphasis on transition services so that special education students leave the system ready to be full productive citizens, whether they go on to college or a job. Carrie I. v. Department of Education, State of Hawaii, 869 F. Supp.2d 1225, 1244 (D. Haw. 2012) citing 150 Cong. Rec. S11653-01, S11656 (Nov. 19, 2004) (Conf. Rep. Accompanying H.R. 1350) Statement of Sen. Dodd). In Gibson v. Forest Hills School District Board of Education, 62 IDELR 261, (S.D. Ohio 2014), the school had provided job development skills but did not conduct formal transition assessments which was a denial of FAPE. Without those transition assessments, appropriate goals and services could not be provided. See also Forest Grove School District v. Student, 63 IDELR 163, 25 (D. Ore. 2014) (failure to provide measurable post-secondary goals based on timely transition assessments is a violation of IDEA). Students with more severe disabilities may require functional and independent living skills goals for their transition goals and failure to provide those skills may be denial of FAPE. Dracut Sch. Comm. v. Bureau of Special Educ. Appeals of the Massachusetts Dep't of Elem. and Secondary Educ., 737 F Supp. 2d 35 (D. Mass. 2010).

IDEA Part B regulations at 34 CFR § 300.43 (a) define transition services as a coordinated set of activities for a child with a disability that: (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary

¹ The current, February 3, 2016 IEP did include present levels of performance based on appropriate transition assessments and, therefore, the goals and services outlined the February 3, 2016 IEP are appropriate.

education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes:

- (i) Instruction;
- (ii) Related services;
- (iii) Community experiences;
- (iv) The development of employment and other post-school adult living objectives;
and
- (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Transition services can include a broad range of services, including vocational and career training based on the unique needs of the individual student, taking into account that child's strengths and interests. 71 Fed. Red. 46579 (2006) In certain situations, those services may be functional skills to allow students who are not ready for independent work to allow those student to continue the training necessary so he/she may live and work independently, given the disabilities

Transition goals must demonstrate that a student will receive the services necessary to achieve his goals based on the Student's vocational choices. Student's vocational interests had changed since the assessments that were completed in 2013 when Student was in eighth grade. Without an updated vocation and career interest inventory, it would be impossible to develop transition goals to allow Student to meet his vocational or career interests. In addition, Student's vocational teacher reported that he was unable to work without direct supervision. She and his other teacher noted that he would have difficulty living on his own evidenced by his functioning in the home economics classroom.

With regard to the February 5, 2015 IEP, the District did not consider parents' request for a reevaluation or conduct appropriate transition assessments as part of their IDEA obligation to annually assess Student's needs, taking into account his strengths, preferences and interests. Because of the lack of appropriate transition assessments it was impossible to draft appropriate transition goals or offer appropriate transition services.

Issue 2. Was Student denied FAPE because the February 5, 2015 IEP was not reasonably calculated to provide educational benefit?

Districts are obligated to provide a free appropriate public education (FAPE) to students within their District who are eligible for special education services. 34 CFR § 300.17. The type of services to be provided are determined by the IEP team. 34 CFR § 300.320. The well-recognized standard for whether a child has received FAPE is whether the IEP is reasonably calculated to provide some educational benefit. Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 US 176, 197 (1982). The Rowley standard does not require an education that maximizes a student's potential, but only requires a "floor of opportunity." Id. District asserted that Student has made progress on his IEP goals and, therefore, he has received educational benefit. However, the analysis does not end there. The court, in J.L. v. Mercer Island School Dist., 592 F3d 938, 951 (9th Cir. 2010) held that a procedural violation may be a denial of FAPE when it results in the loss of an educational opportunity, infringes on parents' opportunity to participate in the development of the IEP or deprives the student of an educational benefit. Id. at 953. The issue on this record is whether

Student was denied the opportunity to receive educational benefit from the services provided in the 2014 and 2015 IEPs.

As previously discussed in Issue 1 above, one of the parents' contentions is that transition goals and services were not individually based on Student's interests and needs because the IEP team did not have the necessary information to draft goals and services. Student, his parents and the rest of the IEP team met annually to determine goals and services for Student. However, at the time of the February 5, 2015 IEP meeting the parents did not sign their consent to the IEP as required by ARM 10.16.3505 prior to the District being able to implement the IEP. The February 5, 2015 IEP was not signed until June 5, 2015, at which time it was signed with exceptions to the career, vocational, and transition services sections of the IEP. Therefore, the IEP in effect from February 5, 2015 through June 5, 2015 was the 2014 IEP.

The District provided two separate progress reports for Student (on both the 2014 and 2015 IEPs) on March 6, 2015, April 24, 2015, May 28, 2015, October 9, 2015 and November 23, 2015. The District alleges this was because there were exceptions made to the IEP, and the State's electronic data system does not account for exceptions. However, for the timeframe of March through May 2015 the parents had not consented to any provisions in the February 5, 2015. The only progress reports should have been based on the 2014 IEP. It appears the District was unclear which IEP they should be implementing, and that they did implement some of the goals and services prior to receiving parental consent in violation of ARM 10.16.3505.

The District's letter to Student's parents dated December 21, 2015, regarding the parent's request for an extra year of school for Student, claims that parents delay in signing the February 5, 2015 IEP made implementation difficult. As previously stated, the record indicates the IEP was signed with exceptions first on June 5, 2015. It was decided the IEP team would meet in the fall to discuss concerns with the career and vocational transition services. The IEP Team met on October 29, 2015, but was unable to reach consensus on the career and vocation concerns. The transition services remained an issue.

As addressed in Issue 1 above, the parents requested additional assessments prior to the IEP meeting held on February 5, 2015. Parents letter to the District dated January 22, 2015, was a request for reevaluation pursuant to 34 CFR § 300.303(a)(2). Although some of the requested assessments were completed, others have not been completed or were not completed in a timely manner.

The District's alleges it was very difficult to find appropriate job sites for disabled students. The District is not relieved of its obligation to provide transition services even if finding cooperative employers is problematic. Letter to Bereuter, 20 IDELR 536, (OSERS 1993). Additionally, there are outside agencies that could assist the District in providing transition services. With parental consent, districts have an obligation to invite agencies that may provide transition services to the Student to the IEP meeting. 34 CFR § 300.321(b)(3). The District allegedly provided a referral and contact information to the parents but never invited any agencies to the IEP meeting to discuss transition services for Student. The parents contend that they did not receive a referral or any form to provide consent for services to allow outside agencies to participate in the IEP meeting. The parents assert they had to make a request for information regarding outside agencies at the beginning of this 2015-2016 school year.

Based on these facts and circumstances, Student was denied an educational opportunity. The failure to conduct timely transition assessments and develop appropriate goals and services based on

those assessments; the failure to respond to a parental request for a reevaluation and timely conduct a reevaluation; the implementation of the February 5, 2015 IEP prior to obtaining parental consent and the failure to provide access to community job locations resulted in denial of educational opportunity for Student. **District denied Student FAPE in violation of 34 CFR § 300.17.**

Issue 3. Did the District fail to write individual goals in the area of reading in the 2014 IEP and fail to provide reading services? ²

The parents assert that there were no reading goals in the 2014 IEP, even though Student was reading at a first grade level. Throughout his special education program, Student worked on functional reading and math goals including reading recipes, common signs, telling time and counting change. At parental request, Student was placed in a reading class, over the objection of the other team members. As such, there were no additional reading goals in the 2014 IEP. The services required will depend on the student's identified needs as determined by the IEP team. See, e.g., Winkelman v. Parma City Sch. Dist., 51 IDELR 92, 108 LRP 57867 (6th Cir. 2008, unpublished), cert. denied, 109 LRP 38984, 129 S. Ct. 2862 (2009). Although there were no goals written for reading, the student received services to assist him in the areas of reading and math. This may have been a procedural error, but it did not rise to the level of a denial of educational opportunity resulting in the denial of FAPE. J.L. v. Mercer Island School Dist., 592 F3d 938, 951 (9th Cir. 2010). Student received services in reading in the vocational and special education programs which allowed educational benefit. **FAPE was not denied for this Student in regard to reading.**

Issue 4. Did the District fail to follow District policy when considering whether Student was eligible for a waiver of the maximum age of mandatory enrollment?

Student is 19 years old and, without a waiver from District policy, he will no longer be eligible to attend school at the district in the 2016-2017 school year. Because student will age out of mandatory enrollment, the District's responsibility to provide FAPE would end at the end of this school year. 34 CFR § 300.102(a)(1) and § 20-5-101(a), MCA. Student was not retained for any grades throughout his school career, but he did not finish the first grade until he was eight years old. Student will have only had three years of high school when this school year ends.

The District asserted during the investigation of this Complaint that although the final decision of whether or not Student will graduate is up to his IEP team, and based on performance on his goals for the remainder of the year, the District claims Student is on track to graduate in May of 2016. Student's past progress reports on prior IEP goals, indicated Student was making progress but had not achieved the majority of the goals. Student's most current IEP was signed on February 18, 2016. This gives Student a little over three months until graduation on May 29, 2016 to meet all of the goals in his IEP. Complainants expressed concern that there is inadequate time to work on, or meet the new goals. Further, Student's February 18, 2016 IEP indicates "[t]he student will not meet the district's graduation requirements. The student will not receive a regular diploma. The district will not provide special education services for the next school year due to the district policy on the age through which education services are available to students."

² The 2014 IEP is at issue because it was implemented during the timeframe of this Complaint because the February 2015 IEP was not consented to by the parents until June 5, 2015 with exceptions.

Minimum graduation requirements are set out by the Montana Board of Public Education (ARM 10.55.905). Pursuant to ARM 10.55.906(3) “The local board of trustees may waive specific course requirements based on individual student needs and performance levels. Waiver requests shall also be considered with respect to age, maturity, interest, and aspirations of the students and shall be in consultation with the parents or guardians.” The District policy 2410-p1 States, “For students with disabilities, the IEP team may waive specific accreditation standards and prescribe an alternative course of study. Those students who successfully complete the goals identified on an individual education program (IEP) shall be eligible for graduation and be awarded a diploma.”

ARM 10.55.805(4) specifies that “[a] student eligible to receive special education services as identified under IDEA and who has successfully completed the *goals identified on an individualized education program for high school completion* shall be awarded a diploma.” (emphasis added). Districts are required to set out how a student with an IEP will be assisted in meeting the graduation requirements in their IEP through specially designed instruction.

Pursuant to ARM 10.16.3345, a district’s responsibility for promotion of a student with a disability is as follows:

- (4) A student with disabilities shall be promoted or retained according to local educational agency criteria unless waived in the student's IEP.
- (5) A student with disabilities who has completed a prescribed course of studies shall be eligible for graduation from high school.
 - (a) A student who has successfully completed the goals on the IEP shall have completed a prescribed course of study.
 - (b) Documentation of completion of the annual goals shall be included in the periodic review of the IEP.

The District is alleging the Student’s IEP team waived specific accreditation standards and set out an alternative course of study for this Student. The prescribed course of study must however relate back to the District’s graduation requirements.³ Student will not have met the District’s graduation requirements in three years. Although district policy has given the authority to the IEP team to waive specific accreditation standards, omitting a whole year of requirements is concerning.

The District informed Complainants as early as 2010 that Student would age out of school after his 19th birthday. The District did offer to move Student up to the high school early, but the Complainants wanted Student to stay with familiar classmates. Complainants have tried to informally and formally address their concerns through the District. In a letter dated November 17, 2015, Complainants make a request for an additional year of school to the District’s special education director. The special education director replied in a letter dated December 21, 2015, denying the request. District policy 2050 is referred to in that letter, “It is the policy of the District that the ‘District usually will not assign or admit any person who has reached age 19 on or before September 10 of the year to be enrolled; however, a waiver to this usual practice may be granted. All waivers are granted in the sole discretion of the District.’”

Complainants then wrote another letter to the District Superintendent requesting another year of school based on exceptional circumstances. Complainants received a letter dated January 28, 2016

³ Minimum graduation requirements are set out in ARM 10.55.905.

from the Clerk of the District stating, “it is my obligation to assess Policy 1700 complaints to determine whether they fall within the purview of the policy, whether the party has “standing,” and other issues that relate to whether this is the proper means for addressing the issue raised. My interpretation of this policy is that the special education issues you raise are excluded. You appear to be seeking an extra year of high school based on ‘exceptional circumstances’ as allowed in Mont. Code Ann. § 20-5-101, which could fall within Policy 1700, but those exceptional circumstances appear to arise out of your concern regarding the provision of special education and services.”

Complainants attempted to contact the Clerk but she did not return their call and they initiated this state complaint process. It is clear in Complainant’s November 17, 2015 letter to the District they are seeking a waiver to the age requirement pursuant to District policy 2050 and MCA 20-5-101(3)⁴. It was indicated by District administrators during the interview process that the waivers are rarely granted, and that waivers are not available for students receiving special education services.

The District policy 2050 does not exclude special education students and does not define “exceptional circumstances.” It does not appear the District followed their procedure for a request for an age waiver. Further, it appears the parents’ only opportunity to present their alleged “exceptional circumstances” was through this state complaint process as a request for compensatory education.

The parents requested an age waiver as set out by District Policy 2050. In summarily refusing the request, the District is not following its own policies and its procedures may be inconsistent with state law and administrative rule. The Office of Public Instruction does not have authority to instruct the District regarding these allegations or concerns over the District’s policy and procedure and practice, but suggests a careful internal review of the apparent practice for determining when and how a student receiving special education services is awarded a diploma or exited from school.

E. Disposition

The District is ORDERED to take the following actions:

1. The District shall promptly arrange for special education staff training by the OPI for all secondary special education staff that did not attend the training OPI provided in February 2016 in **identifying and performing adequate assessments, transition assessments and services**. The training shall be completed by **May 10, 2016** with verification sent to the Dispute Resolution Office. Further, to document that all IEPs including Secondary Transition meet compliance, **the District must submit all IEPs developed by the District after the training until further notice from the School Improvement/Compliance Unit Manger.**
2. The IEP team shall meet and discuss the parents’ request for reevaluation dated January 22, 2015 in order to determine if additional areas of assessment are necessary. After consultation with Student’s IEP team, **the District shall submit any plans for reevaluation to the OPI Dispute Resolution/EAP Office by April 30, 2016.**

⁴ “The trustees may at their discretion assign and admit a child to a school in the district who is under 6 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section.”

3. The District shall offer special education and related services adequate to compensate for the failure to provide Student a FAPE from February 5, 2015 until February 3, 2016. The compensatory education services shall be in keeping with this Final Report and any recommendations from the IEP team. After consultation with Student's IEP team, the District shall submit a plan for compensatory education services to be provided to Student after Student graduates or is exited from enrollment by the District. **A plan shall be submitted to the OPI Dispute Resolution/EAP office by May 10, 2016.**

Ann Gilkey
OPI Compliance Officer

c: Mandi Gibbs, Dispute Resolution/EAP Director
Frank Podobnik, State Special Education Director
Dale Kimmet, School Improvement/Compliance Unit Manager
[Attorney for District]